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Swift Innovations, LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

APOTHECARY MOVEMENT, LLC, a Utah
limited liability company,

Plaintiff,

vs.

BH ELEGANT LIENNS, LLC dbas AA
WHOLESALE DEALS; and SWIFT
INNOVATIONS, LLC, a New York limited
liability company,

Defendants.

**MOTION FOR RULE 16 SCHEDULING
CONFERENCE**

Civil No. 2:23-cv-00845-HCN-DAO

Judge Howard C. Nielson, Jr.

Defendant/Judgment Debtor BH Elegant Linens, LLC (“BH”), and nonparties Swift Innovations, LLC, and Avi Alhakim (collectively “movants”), by and through counsel, Richard A. Kaplan of YOUNG HOFFMAN, LLC, appearing for the limited purpose of contesting personal jurisdiction, respectfully submit to the Court their Motion for Rule 16 Scheduling Conference. With multiple motions pending before the Court, and all related briefing completed, the time is ripe for a scheduling conference. Such a conference will assist the Court in understanding the issues, in sequencing the motions for hearing and disposition, in identifying motions that are moot or will be mooted by the disposition of other motions, and generally in moving the case

forward to final resolution of these post-judgment proceedings. To clarify the standing of non-parties Swift and Alhakim to join in this motion, Plaintiff has moved to join them as Judgment Debtors (Doc 45) and they have joined Defendant BH in the opposition to that motion (Doc. 63).¹ As to the importance of scheduling a Rule 16 conference now, all of non-party Swift's funds, \$423,312.67, have been garnished since the end of March. See Amended Motion for Return of Property Pre-trial and Memorandum in Support of Immediate Return of Wrongfully Garnished Funds and for Expedited Consideration (Doc 65). Swift's inability to access these funds for four months has effectively made it impossible for Swift to conduct business. Time is thus of the essence. Swift needs this Court to intervene, particularly given that that most efficient way to proceed, and possibly even resolve this matter, turns on a few preliminary issues:

1. First, the operative judgment and writ of garnishment by which the funds at issue were obtained were both vacated by Doc. #50, removing any purported jurisdiction of this Court over the funds necessitating immediate return of said funds to nonparty Swift Innovations, LLC.
2. Second, Defendant BH was never properly served in this matter and the time for doing so has expired, necessitating dismissal of this action. It is undisputed that service was never even attempted on nonparties Swift Innovations, LLC or Avi Alhakim.
3. Third, there is no personal jurisdiction in Utah over Defendant or either nonparty movant, and therefore the case must also be dismissed on these grounds.

¹ For the Court's convenience, attached as Exhibit 1 is a copy of the Docket Sheet in this matter with annotations. "D" indicates that the motion has been decided; "M" indicates motions that are moot now; and "P" indicates motions that are pending, briefed, and ready for decision.

Docket Text Order 50 expressly vacated the Amended Default Judgment and both Writs of Garnishment, including the one directed at Swift's account with Bank America (Docs. 27-28)² Docket Text Order 50 thus extinguished Plaintiff's right to garnish Swift's account. At that point, May 5, 2024, Plaintiff should have immediately returned the funds. It did not. Thus, Swift is constrained to request the Court to resolve Swift's Motion for Return of Property Wrongfully Garnished (Doc 65) before or at this requested Rule 16 Conference. Furthermore, as the operative judgment in this matter, the Amended Judgment (Doc. 24), was vacated by Docket Text Order 50, no judgment exists against Defendant BH rendering Plaintiff's Motion to Alter Judgment to include non-parties Swift and Alhakim moot (Doc. 45-46,62-63,67); and, if confirmed by this Court, would effectively moot Plaintiff's Motion for Reconsideration of Docket Text Order 50 (Doc 68) as well.

The same results follow if the Rule 60 (b) motion BH filed is granted (Doc 43), either on grounds (1) that any judgment against BH is void under Rule 60 (b) (4) for lack of proper service on BH; or (2) in the interests of justice under Rule 60 (b)(6) because of (a) the misleading caption on the Amended Default Judgment (and Writ of Garnishment) identifying Swift as a Judgment Debtor and sent as such to Bank of America; and/or (b) Plaintiff's representation to the Court that damages in this case could be made certain by calculation as required by Rule 59, which was plainly false as elaborated in the motion. Although not raised in Doc. 43, lack of personal jurisdiction is an additional ground for vacating any judgment under Rule 60 (b) (4) and is grounds to dismiss the matter as requested in the Motion to Dismiss for Lack of Personal Jurisdiction (Doc 70).

² The Writs of Garnishment, Docs. 27 and 28, have both been stricken pursuant to Docket Text Order 50.

Any of these scenarios would require Plaintiff to, at a minimum, file and serve a Third Amended Complaint and, if it sought to regain the funds in Swift's bank account, to file and substantiate a Motion for Pre-Judgment Writ of Attachment in this Court, including meeting all of the requirements under FRCP 64 and URCP 64, such as establishment of a fixed or readily ascertainable amount and potential posting of bond.

Last, if the Court were to grant the Motion to Dismiss (Doc 70) on the ground that Plaintiff cannot establish personal jurisdiction over BH, that of course would dispose of the entire matter in the Northern District of Utah. Plaintiff could then, if it so chose, refile in a court with jurisdiction over Defendant and/or the non-parties and effectuate proper service on any parties made defendants to that suit.

At all events, a Rule 16 Conference is warranted in the interest of judicial economy in that it will assist the Court in untangling and resolving these matters, and this Motion for a Rule 16 Conference should be granted.

Dated this 1st day of August, 2024.

/s/ Richard A. Kaplan
Richard A. Kaplan
YOUNG HOFFMAN, LLC
*Attorneys for Defendant BH Elegant Linens,
LLC, d/b/AA Wholesale Deals; and putative
Defendant Swift Innovations, LLC*

CERTIFICATE OF SERVICE

I certify that on this 1st day of August, 2024, I caused a true copy of the foregoing
Motion for Rule 16 Scheduling Conference to be served via the court's electronic filing system
upon the following:

Jordan K. Cameron
jordan@cameronringwood.com
CAMERON RINGWOOD, LC
6975 South Union Park Avenue, Suite 600
Cottonwood Heights, UT 84047
Attorneys for Apothecary Movement, LLC

/s/ Echo Peterson

Echo Peterson

EXHIBIT 1

US District Court Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:23-cv-00845-HCN

Apothecary Movement LLC v. BH Elegant Linens
Assigned to: Judge Howard C. Nielson, Jr
Demand: \$500,000
Cause: 28:1332 Diversity-Breach of Contract

Date Filed: 11/16/2023
Date Terminated: 02/26/2024
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

Apothecary Movement LLC
a Utah limited liability company

represented by **Jordan K. Cameron**
CAMERON RINGWOOD LC
6975 UNION PARK AVE STE 600
COTTONWOOD HEIGHTS, UT 84047
385-463-2425
Email: jordan@cameronringwood.com
ATTORNEY TO BE NOTICED

V.

Defendant

BH Elegant Linens
a New Jersey company
doing business as
AA Wholesale Deals

represented by **Richard A. Kaplan**
ANDERSON & KARRENBURG
50 W BROADWAY STE 600
SALT LAKE CITY, UT 84101
(801)534-1700
Email: rkaplan@yahlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Swift Innovations LLC
TERMINATED: 05/07/2024

represented by **Richard A. Kaplan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Avi Alhakim

represented by **Richard A. Kaplan**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Garnishee

Bank of America NA



Garnishee**JP Morgan Chase Bank NA**

Date Filed	#	Docket Text
11/16/2023	<u>1</u>	COMPLAINT against BH Elegant Linens dba AA Wholesale Deals with filing fee previously paid (Filing fee \$ 402, receipt number AUTDC-4879020) filed by Apothecary Movement, LLC. (Cameron, Jordan) Modified on 11/17/2023 by adding receipt of payment (kec). (Main Document 1 replaced on 12/15/2023 to remove draft watermark) (nl). (Entered: 11/16/2023)
11/16/2023	<u>2</u>	Requested Summons as to BH Elegant Linens dba AA Wholesale Deals. (Cameron, Jordan) (Entered: 11/16/2023)
11/17/2023	3	Modification of Docket: Error: Attorney paid the filing fee without putting the receipt number. Correction: Clerk added the receipt number to the payment, re <u>1</u> Complaint. (kec) (Entered: 11/17/2023)
11/17/2023		Magistrate Judge Daphne A. Oberg added. Case number will now read 2:23-cv-00845-DAO . Please make changes to document captions accordingly. (kec) (Entered: 11/17/2023)
11/17/2023	4	NOTICE OF DEFICIENCY re <u>1</u> Complaint. The Civil Cover Sheet is missing or incomplete. All civil actions presented for filing must be accompanied by a completed Civil Cover Sheet. See Local Rule DUCivR3-4. Counsel must file a completed Civil Cover Sheet JS44 immediately. (kec) (Entered: 11/17/2023)
11/17/2023	<u>5</u>	Civil Cover Sheet (JS44) Civil Summons may be issued electronically. Prepare the summons using the courts PDF version and email it to utdecf_clerk@utd.uscourts.gov for issuance, filed by Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 11/17/2023)
11/17/2023	<u>6</u>	Summons Issued Electronically as to BH Elegant Linens dba AA Wholesale Deals. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (kec) (Entered: 11/17/2023)
11/20/2023	<u>7</u>	ORDER TO PROPOSE SCHEDULE - See order for details. Signed by Magistrate Judge Daphne A. Oberg on 11/20/2023. (haa) (Entered: 11/20/2023)
11/28/2023	<u>8</u>	SUMMONS Returned Executed by Apothecary Movement, LLC as to BH Elegant Linens served on 11/22/2023, answer due 12/13/2023. (Cameron, Jordan) (Entered: 11/28/2023)
12/14/2023	<u>9</u>	MOTION for Default Judgment as to defendant(s) BH Elegant Linens, LLC dba AA Wholesale Deals and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Attachments: # <u>1</u> Affidavit of Jordan K. Cameron)(Cameron, Jordan) Modified on 12/15/2023 - stricken as improperly filed per DUCivR 55-1 (alf). (Entered: 12/14/2023)
12/15/2023	10	NOTICE OF DEFICIENCY re <u>9</u> MOTION for Default Judgment. The document is stricken as improperly filed. It is requested that counsel review DUCivR 55-1 for correct procedure. The clerk requests the filer of the original document to refile the pleading. The new pleading will receive a new document number on the docket. (alf) (Entered: 12/15/2023)

12/15/2023	<u>11</u>	MOTION for Entry of Default as to BH Elegant Linens dba AA Wholesale Deals and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 12/15/2023)
12/15/2023	<u>12</u>	MOTION for Default Judgment as to defendant(s) BH Elegant Linens, LLC dba AA Wholesale Deals and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Cameron, Jordan) Modified on 12/15/2023 stricken as improperly filed. (alf). (Entered: 12/15/2023)
12/15/2023	13	NOTICE OF DEFICIENCY re <u>12</u> MOTION for Default Judgment as to defendant(s) BH Elegant Linens, LLC dba AA Wholesale Deals and Memorandum in Support . The document is stricken as improperly filed. It is requested that counsel review DUCivR 55-1 (c) regarding the documents that must be included with this filing. The clerk requests the filer of the original document to refile the pleading. The new pleading will receive a new document number on the docket. (alf) (Entered: 12/15/2023)
12/18/2023	<u>14</u>	Clerk's ENTRY OF DEFAULT CERTIFICATE as to BH Elegant Linens. The default of Defendant under Federal Rule of Civil Procedure 55(a) and DUCivR 55-1(a) is hereby entered. Motions terminated: <u>11</u> MOTION for Entry of Default as to BH Elegant Linens dba AA Wholesale Deals and Memorandum in Support filed by Apothecary Movement, LLC. (mh) (Entered: 12/18/2023)
12/18/2023	<u>15</u>	MOTION for Default Judgment as to defendant(s) BH Elegant Linens, LLC DBA AA Wholesale Deals and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Attachments: # <u>1</u> Affidavit Of Jordan K. Cameron, # <u>2</u> Text of Proposed Order) (Cameron, Jordan) (Entered: 12/18/2023)
12/18/2023	16	DOCKET TEXT ORDER TO REASSIGN CASE: Based on the filing of a motion for default judgment, it is not feasible to obtain consent from all parties to the jurisdiction of a magistrate judge. Accordingly, this case shall be reassigned to a district judge, with an automatic referral under 28 U.S.C. § 636(b)(1)(A) to the undersigned magistrate judge, pursuant to DUCivR 72-4(d)(2)(A). Signed by Magistrate Judge Daphne A. Oberg on 12/18/2023. No attached document.(med) (Entered: 12/18/2023)
12/18/2023	17	Case randomly assigned to Judge Howard C. Nielson, Jr per 16 Docket Text Order. Magistrate Judge is automatically referred under 28 U.S.C.636(b)(1)(A). Magistrate Judge Daphne A. Oberg no longer assigned as the presiding judge to the case. (mh) (Entered: 12/18/2023)
02/16/2024	18	DOCKET TEXT ORDER. Although Plaintiff invokes this courts diversity jurisdiction under 28 U.S.C. § 1332, it has failed adequately to allege the citizenship of either party. As for itself, Plaintiff alleges only that it "is a Utah limited liability company with its principal place of business in Utah." Dkt. No. 2 ¶ 1. But these facts are not relevant to Plaintiff's citizenship. Rather, it is well settled that for purposes of diversity jurisdiction, an LLC's citizenship is determined by "the citizenship of all its members," which means that an LLC is a citizen of every State or foreign nation of which any of its members is a citizen. <i>Siloam Springs Hotel, L.L.C. v. Century Sur. Co.</i> , 781 F.3d 1233, 1238 (10th Cir. 2015). As for Defendant, Plaintiff alleges that "BH Elegant Linens dba AA Wholesale Deals, is a New Jersey company." Id. at 3. But Plaintiff does not specify whether Defendant is a corporation or some other form of business association. If Defendant is a corporation, Plaintiff must allege not only each State (or foreign nation) in which Defendant is incorporated, but also the State or foreign nation where Defendant "has its principal place of business." 28 U.S.C. § 1332(c)(1). And if Defendant is an LLC or some other sort of unincorporated association, Plaintiff must identify Defendant's members and allege each member's citizenship. <i>See Siloam Springs Hotel</i> , 781 F.3d at 1237-38. No later than March 1, 2024, Plaintiff shall file an amended complaint that (1) identifies its own members and

		properly alleges each member's citizenship, (2) clarifies whether Defendant is a corporation or some other sort of business association, and (3) properly alleges Defendant's citizenship for purposes of diversity jurisdiction. <i>See</i> 28 U.S.C. § 1653. If the amended complaint fails adequately to allege complete diversity between the parties, this action will be dismissed for lack of subject matter jurisdiction. SO ORDERED. Signed by Judge Howard C. Nielson, Jr. on 2/16/2024. (mwp) (Entered: 02/16/2024)
02/17/2024	<u>19</u>	AMENDED COMPLAINT against BH Elegant Linens. filed by Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 02/17/2024)
02/19/2024	<u>20</u>	DOCKET TEXT ORDER. In the Amended Complaint, Plaintiff alleges that there is diversity of citizenship between the Plaintiff and the Defendant because "Plaintiff is a Utah limited liability company with three owners: Amaar Ashraf, Asif Shaikh and Avais Ahmed, who are residents of Utah and California," and "Defendant is a New York limited liability company... and is the alter ego of its sole owner, Avi Alhakim, a New Jersey Resident." Dkt. No. 19 4. It is well settled, however, that for individuals who are United States citizens, diversity jurisdiction turns on state citizenship, not mere residence; that state citizenship turns on domicile; and that domicile is not the same thing as residence. <i>See, e.g., Mississippi Band of Choctaw Indians v. Holyfield</i> , 490 U.S. 30, 48 (1989); <i>Siloam Springs Hotel, L.L.C. v. Century Sur. Co.</i> , 781 F.3d 1233, 1238 (10th Cir. 2015); <i>Smith v. Cummings</i> , 445 F.3d 1254, 1259-60 (10th Cir. 2006); <i>Whitelock v. Leatherman</i> , 460 F.2d 507, 514 (10th Cir. 1972). (For a non-U.S. citizen, the court instead looks to the actual country of citizenship.) No later than March 1, 2024, Plaintiff shall file a second amended complaint correctly identifying the citizenship of Mr. Ashraf, Mr. Shaikh, Mr. Ahmed, and Mr. Alhakim. <i>See</i> 28 U.S.C. § 1653. If Plaintiffs submission fails to establish complete diversity between the Plaintiff and the Defendant, the action will be the action will be dismissed for lack of subject matter jurisdiction. SO ORDERED. Signed by Judge Howard C. Nielson, Jr., on 2/19/2024. (mwp) (Entered: 02/19/2024)
02/19/2024	<u>21</u>	AMENDED COMPLAINT <i>Second</i> against BH Elegant Linens. filed by Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 02/19/2024)
02/26/2024	<u>22</u>	DOCKET TEXT ORDER. Based on its review of <u>15</u> Motion for Default Judgment, <u>1</u> Complaint, and the docket, the court concludes that Plaintiff has complied with the requirements of Fed. R. Civ. P. 55(b) and DUCivR 55-1 and is entitled to default judgment. The court finds that no hearing is necessary because Defendant has not appeared and because it is clear, in light of <u>1</u> Complaint and <u>15</u> Motion for Default Judgment and the accompanying exhibits, that the relief Plaintiff seeks is a sum that can be made certain by computation. <u>15</u> Motion for Default Judgment Is GRANTED. SO ORDERED. Signed by Judge Howard C. Nielson, Jr on 2/26/24. No attached document. (dle) (Entered: 02/26/2024)
02/26/2024	<u>23</u>	JUDGMENT IN A CIVIL CASE: IT IS ORDERED AND ADJUDGED 1) That default judgment is granted in favor of the plaintiff and against the defendant; 2) That compensatory damages are awarded to plaintiff in the amount of \$726,394 plus post judgment interest at the statutory rate of 6.73% and cost and fees of collection. Case Closed. Magistrate Judge Daphne A. Oberg no longer assigned to case. Signed by Judge Howard C. Nielson, Jr on 2/26/24. (dle) (Entered: 02/26/2024)
03/06/2024	<u>24</u>	VACATED PER 50 DOCKET TEXT ORDER - AMENDED JUDGMENT IN A CIVIL CASE: IT IS ORDERED AND ADJUDGED 1. That default judgment is granted in favor of the plaintiff and against the defendant; 2. That compensatory damages are awarded to plaintiff in the amount of \$726,394 plus post judgment interest at the statutory rate of 6.73% and cost and fees of collection. Signed by Judge Howard C. Nielson, Jr on 3/6/24. (dle) Modified on 5/7/2024: edited entry to show jgm vacated (alt) (Entered: 03/06/2024)

03/28/2024	<u>25</u>	MOTION for Writ of Garnishment to Bank of America NA filed by Plaintiff Apothecary Movement, LLC. (dle) (Entered: 03/29/2024)
03/28/2024	<u>26</u>	MOTION for Writ of Garnishment to JPMorgan Chase N.A. filed by Plaintiff Apothecary Movement, LLC. (dle) (Entered: 03/29/2024)
03/29/2024	<u>27</u>	VACATED PER 50 ORDER - WRIT OF GARNISHMENT Issued to Bank of America N.A. (Attachments: # <u>1</u> Exhibit Notice of Garnishment and Exemptions) (dle) Modified on 5/7/2024: edited entry to show writ is vacated (alt) (Entered: 03/29/2024)
03/29/2024	<u>28</u>	VACATED PER 50 ORDER - WRIT OF GARNISHMENT Issued to JPMorgan Chase N.A. (Attachments: # <u>1</u> Exhibit Notice of Garnishment and Exemptions) (dle) Modified on 5/7/2024: edited entry to show writ is vacated (alt) (Entered: 03/29/2024)
04/04/2024	<u>29</u>	NOTICE of LIMITED APPEARANCE by Richard A. Kaplan on behalf of Swift Innovations, LLC for purpose of challenging the Court's jurisdiction (Kaplan, Richard) (Entered: 04/04/2024)
04/04/2024	<u>30</u>	MOTION to Set Aside Judgment and Memorandum in Support filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/04/2024)
04/08/2024	<u>31</u>	MOTION to Expedite Motion to Set Aside Judgment Against Swift Innovations, LLC As Void and to Vacate Writ of Garnishment and Memorandum in Support filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/08/2024)
04/09/2024	<u>32</u>	DOCUMENTS LODGED consisting of Document received from Bank of America. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (dle) (Additional attachment(s) added on 4/16/2024: # <u>1</u> with missing pages) (kb). (Entered: 04/10/2024)
04/10/2024	<u>33</u>	MEMORANDUM in Opposition re <u>31</u> MOTION to Expedite Motion to Set Aside Judgment Against Swift Innovations, LLC As Void and to Vacate Writ of Garnishment and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 04/10/2024)
04/10/2024	<u>34</u>	REPLY to Response to Motion re <u>31</u> MOTION to Expedite Motion to Set Aside Judgment Against Swift Innovations, LLC As Void and to Vacate Writ of Garnishment and Memorandum in Support filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/10/2024)
04/12/2024	<u>35</u>	DOCKET TEXT ORDER. Although Swift Innovations asserts in <u>30</u> Motion to Set Aside Judgment that it is a New York LLC, <u>21</u> Amended Complaint does not allege this, and Swift Innovations provides no evidence that this is the case. Further, the court has been unable to locate Swift Innovations in the New York Department of State's Corporation and Business Entity database. No later than April 15, 2024, Swift shall provide evidence that it is in fact a separate legal entity from BH Elegant Linens, LLC. If it fails to do so, <u>30</u> Motion to Set Aside Judgment will be denied without further notice. SO ORDERED. No attached document. Signed by Judge Howard C. Nielson, Jr. on 04/12/2024. (mwp) (Entered: 04/12/2024)
04/15/2024	<u>36</u>	Supplemental MEMORANDUM in Support re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Defendant Swift Innovations, LLC. (Attachments: # <u>1</u> Affidavit Certificate of Service, # <u>2</u> Affidavit Declaration of Avi Alhakim, # <u>3</u> Exhibit Exhibits 1 through 4)(Kaplan, Richard) (Entered: 04/15/2024)
04/15/2024	<u>37</u>	MEMORANDUM in Opposition re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Attachments: # <u>1</u> Exhibit in Opposition to Rule 60 Motion)(Cameron, Jordan) (Entered: 04/15/2024)

04/17/2024	<u>38</u>	REPLY to Response to Motion re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/17/2024)
04/17/2024	<u>39</u>	MOTION to Stay and Memorandum in Support of <i>Staying Enforcement Proceedings</i> filed by Defendant Swift Innovations, LLC. (Attachments: # <u>1</u> Affidavit Declaration of Avi Alhakim in Support of Motion to Stay Enforcement Proceedings)(Kaplan, Richard) (Entered: 04/17/2024)
04/18/2024	<u>40</u>	Second AFFIDAVIT/DECLARATION of Avi Alhakim in Support re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support as <i>Void for Lack of Jurisdiction</i> filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/18/2024)
04/18/2024	<u>41</u>	MOTION for Hearing re <u>27</u> Writ of Garnishment and Memorandum in Support filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/18/2024)
04/22/2024	<u>42</u>	NOTICE of LIMITED APPEARANCE by Richard A. Kaplan on behalf of BH Elegant Linens for purpose of challenging the Courts jurisdiction (Kaplan, Richard) (Entered: 04/22/2024)
04/22/2024	<u>43</u>	MOTION to Set Aside Judgment and Memorandum in Support filed by Defendants BH Elegant Linens, Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/22/2024)
04/23/2024	<u>44</u>	NOTICE of SUPPLEMENTAL AUTHORITY by Apothecary Movement, LLC re <u>37</u> Memorandum in Opposition to Motion (Attachments: # <u>1</u> Exhibit Bank Records) (Cameron, Jordan) (Entered: 04/23/2024)
04/24/2024	<u>45</u>	MOTION to Alter Judgment and Memorandum in Support to <i>Add Swift Innovations, LLC and Avi Alhakim as Judgment Debtors</i> filed by Plaintiff Apothecary Movement, LLC. (Attachments: # <u>1</u> Affidavit of Asif Shaikh, # <u>2</u> Affidavit of Jordan K. Cameron)(Cameron, Jordan) (Entered: 04/24/2024)
04/25/2024	<u>46</u>	Amended MOTION to Alter Judgment and Memorandum in Support to <i>Add Swift Innovations, LLC and Avi Alhakim as Judgment Debtors</i> filed by Plaintiff Apothecary Movement, LLC. (Attachments: # <u>1</u> Affidavit of Asif Shaikh, # <u>2</u> Affidavit of Jordan K. Cameron)(Cameron, Jordan) (Entered: 04/25/2024)
04/25/2024	<u>47</u>	MEMORANDUM in Opposition re <u>39</u> MOTION to Stay and Memorandum in Support of <i>Staying Enforcement Proceedings</i> filed by Plaintiff Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 04/26/2024)
04/26/2024	<u>48</u>	MOTION to Quash Subpoena to Bank of America and to Documents Produced by JP Morgan Chase as Product of Default Judgment Procured Through Fraud or Misrepresentation and Memorandum in Support filed by Defendants BH Elegant Linens, Swift Innovations, LLC. (Kaplan, Richard) (Entered: 04/26/2024)
04/29/2024	<u>49</u>	Amended MOTION to Quash Subpoena to Bank of America, to Strike all Documents Produced by Bank of American and by JP Morgan Chase as Product of Default Judgment Procured Through Fraud or Misrepresentation, and to Require Plaintiff and its Counsel to Destroy all Copies of Such Documents in Their Possession and Memorandum in Support filed by Defendant BH Elegant Linens. (Kaplan, Richard) (Entered: 04/29/2024)
05/05/2024	50	DOCKET TEXT ORDER. Because Swift Innovations has shown that it is a New Jersey Limited Liabilities Company (and thus a separate legal entity from BH Elegant Linens, LLC) and that it was not served by Plaintiff, <u>30</u> Motion to Set Aside Judgment Against Swift Innovations, LLC is GRANTED. <u>24</u> Amended Judgement, <u>27</u> Writ of Garnishment, and <u>28</u> Writ of Garnishment are all VACATED. <u>31</u> Motion to Expedite Motion to Set Aside Judgment Against Swift Innovations, LLC, <u>39</u> Motion to Stay, and <u>41</u> Motion for Hearing

		are DENIED as moot. SO ORDERED. No attached document. Signed by Judge Howard C. Nielson, Jr. on 05/05/2024. (mwp) Modified on 5/7/2024: Text corrected to refer to <u>28</u> Writ instead of <u>26</u> which is a motion (alt) (Entered: 05/05/2024)
PA	05/06/2024	<u>51</u> MOTION for Interpleader Deposit NOTICE of Interpleader of Garnished Funds by Apothecary Movement, LLC (Cameron, Jordan) Modified by correcting event type to motion on 6/26/2024 (dle). (Entered: 05/06/2024)
P	05/06/2024	<u>52</u> MOTION for Return of Property Pre-trial and Memorandum in Support <i>for Expedited Consideration and to Reject Deposit into Court as Premature and Improper Without Leave</i> filed by Defendant Swift Innovations, LLC. (Kaplan, Richard) (Entered: 05/06/2024)
P	05/06/2024	<u>53</u> REQUEST for Leave to Interplead Garnished Funds with the Court re <u>51</u> Notice (Other) filed by Plaintiff Apothecary Movement, LLC. (Cameron, Jordan) (Entered: 05/06/2024)
	05/06/2024	<u>54</u> MEMORANDUM in Opposition re <u>43</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Plaintiff Apothecary Movement, LLC. (Attachments: # <u>1</u> Exhibit Service Report)(Cameron, Jordan) (Entered: 05/06/2024)
	05/07/2024	Modification of Docket re 50 DOCKET TEXT ORDER on Motion to Set Aside Judgment. Error: The docket text order (DTO) included a typo referring to " <u>26</u> Writ of Garnishment, and <u>27</u> Writ of Garnishment". Correction: The DTO entry is corrected to refer to " <u>27</u> Writ of Garnishment, and <u>28</u> Writ of Garnishment". (alt) (Entered: 05/07/2024)
	05/08/2024	<u>55</u> RESPONSE re <u>53</u> Request, filed by Swift Innovations LLC. (Kaplan, Richard) (Entered: 05/08/2024)
	05/10/2024	<u>56</u> REPLY to Response to Motion re <u>43</u> MOTION to Set Aside Judgment <i>Against BH Elegant Linens, LLC</i> filed by Defendant BH Elegant Linens. (Kaplan, Richard) (Entered: 05/10/2024)
	05/10/2024	<u>57</u> Redacted MEMORANDUM in Opposition re <u>49</u> Amended MOTION to Quash Subpoena to Bank of America, to Strike all Documents Produced by Bank of American and by JP Morgan Chase as Product of Default Judgment Procured Through Fraud or Misrepresentation, and to Require Plaintiff and its Counsel to Des filed by Plaintiff Apothecary Movement LLC. (Attachments: # <u>1</u> Exhibit Declaration of Asif Shaikh) (Cameron, Jordan) (Entered: 05/10/2024)
M	05/10/2024	<u>58</u> Ex Parte (Not Sealed) MOTION to Seal Document <u>57</u> Memorandum in Opposition to Motion, and Memorandum in Support filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 05/10/2024)
	05/10/2024	<u>59</u> **SEALED DOCUMENT** re <u>57</u> Memorandum in Opposition to Motion, filed by Plaintiff Apothecary Movement LLC NOTE: Filer is instructed to serve the <u>sealed document</u> on all other parties.. (Attachments: # <u>1</u> Exhibit Declaration of Asif Shaikh)(Cameron, Jordan) (Entered: 05/10/2024)
	05/10/2024	<u>60</u> DECLARATION of Avi Alhakim filed by BH Elegant Linens. (Kaplan, Richard) (Entered: 05/10/2024)
	05/14/2024	<u>61</u> REPLY BRIEF re <u>53</u> Request <i>for Leave to Interplead Funds</i> filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 05/14/2024)
	05/15/2024	<u>62</u> NOTICE of LIMITED APPEARANCE by Richard A. Kaplan on behalf of Avi Alhakim for purpose of the limited purpose of contesting jurisdiction including Plaintiffs Motion to Add him as a Judgment Debtor (Kaplan, Richard) (Entered: 05/15/2024)

05/15/2024	<u>63</u>	MEMORANDUM in Opposition re <u>46</u> Amended MOTION to Alter Judgment and Memorandum in Support <i>to Add Swift Innovations, LLC and Avi Alhakim as Judgment Debtors</i> filed by Defendants Avi Alhakim, Swift Innovations LLC. (Kaplan, Richard) (Entered: 05/15/2024)
05/15/2024	<u>64</u>	STRICKEN INCORRECT DOCUMENT FILED (Counsel to refile correct document) REPLY to Response to Motion re <u>43</u> MOTION to Set Aside Judgment filed by Defendant BH Elegant Linens. (Kaplan, Richard) Modified by striking docket entry on 5/15/2024 (dle). (Entered: 05/15/2024)
05/16/2024	<u>65</u>	Amended MOTION for Return of Property Pre-trial and Memorandum in Support of <i>Immediate Return of Wrongfully Garnished Funds and for Expedited Consideration</i> filed by Defendant Swift Innovations LLC. (Kaplan, Richard) (Entered: 05/16/2024)
05/17/2024	<u>66</u>	DECLARATION of Jessica Apo re <u>54</u> Memorandum in Opposition to Motion filed by Apothecary Movement LLC. (Attachments: # <u>1</u> Exhibit Website Screenshot, # <u>2</u> Exhibit Website Screenshot, # <u>3</u> Exhibit Website Screenshot, # <u>4</u> Exhibit Website Screenshot, # <u>5</u> Exhibit Website Screenshot, # <u>6</u> Exhibit Articles of Organization, # <u>7</u> Exhibit Casetext Summary, # <u>8</u> Exhibit Certificate of Formation, # <u>9</u> Exhibit Person Search Result, # <u>10</u> Exhibit Deed, # <u>11</u> Exhibit Deed, # <u>12</u> Exhibit Excerpt from Westlaw Report, # <u>13</u> Exhibit Excerpt from Westlaw Report)(Cameron, Jordan) (Entered: 05/17/2024)
05/21/2024	<u>67</u>	REPLY to Response to Motion re <u>46</u> Amended MOTION to Alter Judgment and Memorandum in Support <i>to Add Swift Innovations, LLC and Avi Alhakim as Judgment Debtors</i> filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 05/21/2024)
05/25/2024	<u>68</u>	MOTION Reconsideration re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 05/25/2024)
05/28/2024	<u>69</u>	MEMORANDUM in Opposition re <u>65</u> Amended MOTION for Return of Property Pre-trial and Memorandum in Support of <i>Immediate Return of Wrongfully Garnished Funds and for Expedited Consideration</i> filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 05/28/2024)
05/29/2024	<u>70</u>	MOTION to Dismiss and Memorandum in Support <i>for Lack of Jurisdiction; and NonParties Swift Innovations, LLC and Avi Alhakim's Motion for Declaration That Court Lacks Jurisdiction, and Request for Oral Argument</i> filed by Defendant BH Elegant Linens. (Attachments: # <u>1</u> Declaration of Avi Alhakim Supporting Motion to Dismiss and Request for Oral Hearing, # <u>2</u> Declaration of Richard A. Kaplan Supporting Motion to Dismiss and Request for Oral Hearing)(Kaplan, Richard) (Entered: 05/29/2024)
06/07/2024	<u>71</u>	MEMORANDUM in Opposition re <u>68</u> MOTION Reconsideration re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Defendants Avi Alhakim, BH Elegant Linens, Swift Innovations LLC. (Kaplan, Richard) (Entered: 06/07/2024)
06/07/2024	<u>72</u>	MEMORANDUM in Support re <u>65</u> Amended MOTION for Return of Property Pre-trial and Memorandum in Support of <i>Immediate Return of Wrongfully Garnished Funds and for Expedited Consideration</i> filed by Defendant Swift Innovations LLC. (Kaplan, Richard) (Entered: 06/07/2024)
06/12/2024	<u>73</u>	REPLY to Response to Motion re <u>68</u> MOTION Reconsideration re <u>30</u> MOTION to Set Aside Judgment and Memorandum in Support filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 06/12/2024)
06/24/2024	<u>74</u>	MOTION for Discovery and Memorandum in Support <i>re Motion to Dismiss for Lack of Jurisdiction</i> filed by Plaintiff Apothecary Movement LLC. (Attachments: # <u>1</u> Exhibit

Customer Message)(Cameron, Jordan) (Entered: 06/24/2024)

06/26/2024	75	Modification of Docket: Error: Document filed as Notice. Correction: Event type corrected to Motion for Interpleader Deposit re <u>51</u> MOTION for Interpleader Deposit (28 U.S.C. Section 1335). (dle) (Entered: 06/26/2024)
07/01/2024	<u>76</u>	MOTION for Extension of Time to File Response/Reply as to <u>70</u> MOTION to Dismiss and Memorandum in Support <i>for Lack of Jurisdiction; and NonParties Swift Innovations, LLC and Avi Alhakim's Motion for Declaration That Court Lacks Jurisdiction, and Request for Oral Argument</i> and Memorandum in Support filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 07/01/2024)
07/08/2024	<u>77</u>	MEMORANDUM in Opposition re <u>74</u> MOTION for Discovery and Memorandum in Support <i>re Motion to Dismiss for Lack of Jurisdiction</i> filed by Defendants Avi Alhakim, BH Elegant Linens, Swift Innovations LLC. (Kaplan, Richard) (Entered: 07/08/2024)
07/08/2024	<u>78</u>	MEMORANDUM in Opposition re <u>70</u> MOTION to Dismiss and Memorandum in Support <i>for Lack of Jurisdiction; and NonParties Swift Innovations, LLC and Avi Alhakim's Motion for Declaration That Court Lacks Jurisdiction, and Request for Oral Argument</i> filed by Plaintiff Apothecary Movement LLC. (Cameron, Jordan) (Entered: 07/08/2024)
07/18/2024	<u>79</u>	REPLY to Response to Motion re <u>74</u> MOTION for Discovery and Memorandum in Support <i>re Motion to Dismiss for Lack of Jurisdiction</i> filed by Plaintiff Apothecary Movement LLC. (Attachments: # <u>1</u> Exhibit A - Amazon Direct Message, # <u>2</u> Exhibit B - Shipping Labels)(Cameron, Jordan) (Entered: 07/18/2024)
07/19/2024	<u>80</u>	MEMORANDUM in Support re <u>70</u> MOTION to Dismiss and Memorandum in Support <i>for Lack of Jurisdiction; and NonParties Swift Innovations, LLC and Avi Alhakim's Motion for Declaration That Court Lacks Jurisdiction, and Request for Oral Argument</i> filed by Defendants Avi Alhakim, BH Elegant Linens, Swift Innovations LLC. (Kaplan, Richard) (Entered: 07/19/2024)

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